

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHANE MATTHEW LUCAS,

Plaintiff,

Case No. 1:21-cv-299

v.

Honorable Paul L. Maloney

STATE OF MICHIGAN et al.,

Defendants.

/

OPINION

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983.

Under the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996) (PLRA), the Court is required to dismiss any prisoner action brought under federal law if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c). The Court must read Plaintiff's *pro se* complaint indulgently, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), and accept Plaintiff's allegations as true, unless they are clearly irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). Applying these standards, the Court will dismiss Plaintiff's complaint for failure to state a claim.

Discussion

I. Factual allegations

Plaintiff is presently incarcerated with the Michigan Department of Corrections (MDOC) at the Parnall Correctional Facility (SMT) in Jackson, Jackson County, Michigan. The events about which he complains, however, occurred at the Muskegon Correctional Facility (MCF)

in Muskegon, Muskegon County, Michigan. Plaintiff sues the State of Michigan, the 14th Judicial Circuit Court, the County of Muskegon, Public Defenders Frederick D. Johnson, Jr. and Kendra Robinson, the Muskegon County Jail, Circuit Court Judge Annette Rose Smedley, and Muskegon County Jail Sergeant Unknown Myiers.

In his complaint, as well as in his motion for entry of claims (ECF No. 10), Plaintiff alleges that on April 24, 2020, he released on bond. However, on May 12, 2020, Plaintiff was arrested and detained for probation violations, but was not given a hearing until October 1, 2020. Plaintiff was found “not guilty” of all violations except for a minor violation with a sanction of five to ten days. Plaintiff’s incarceration was continued for seven months based on the single violation. Plaintiff claims that Defendant Smedley violated his due process rights when she kept him confined in jail for a minor probation violation during a pandemic.

Plaintiff alleges that Defendant Robinson, who represented Plaintiff, continually lied to him and collaborated with the state court, the prosecution, the bailiff, and the probation officer to keep Plaintiff in jail. Plaintiff asserts that Defendant Robinson refused to file any of the motions he requested. Plaintiff states that he has paperwork from Defendant Robinson which shows that she got Plaintiff’s charges wrong. Plaintiff states that he sent Defendant Johnson, Jr. a dozen kites and letters complaining about Defendant Robinson’s representation, to no avail.

Plaintiff further states that he was placed in danger by non-Defendant Officers Diaz and Dejang, who were employed by Roosevelt Township and took Plaintiff from the courtroom to the jail. During this transfer and confinement, Plaintiff became infected with COVID-19. Plaintiff alleges that his lungs continue to be affected by COVID-19.

Plaintiff claims that between December 20, 2020, and December 25, 2020, Plaintiff and twelve other prisoners from the Muskegon County Jail were to be transported to the Charles

Egeler Reception & Guidance Center (RGC) in Jackson, Michigan. Plaintiff states that Defendant Myiers ordered officers from the Muskegon County Jail to transport Plaintiff with the other prisoners, despite being aware of the fact that Plaintiff had tested positive for COVID-19. When they arrived at RGC, MDOC officials refused to accept the prisoners because of Plaintiff's COVID-19 positive status. Plaintiff and the other prisoners were held in the transportation van for more than seven and a half hours and were told there would be no stops for the restroom, so they should urinate on the floor. During this time, Plaintiff was shackled with the other prisoners with urine on the floor of the van.

Plaintiff seeks equitable relief and damages.

II. Failure to state a claim

A complaint may be dismissed for failure to state a claim if it fails ““to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.”” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). While a complaint need not contain detailed factual allegations, a plaintiff’s allegations must include more than labels and conclusions. *Twombly*, 550 U.S. at 555; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”). The court must determine whether the complaint contains “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 679. Although the plausibility standard is not equivalent to a ““probability requirement,’ . . . it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 556). “[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not

‘show[n]’—that the pleader is entitled to relief.” *Iqbal*, 556 U.S. at 679 (quoting Fed. R. Civ. P. 8(a)(2)); *see also Hill v. Lappin*, 630 F.3d 468, 470–71 (6th Cir. 2010) (holding that the *Twombly/Iqbal* plausibility standard applies to dismissals of prisoner cases on initial review under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(i)).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege the violation of a right secured by the federal Constitution or laws and must show that the deprivation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988); *Street v. Corr. Corp. of Am.*, 102 F.3d 810, 814 (6th Cir. 1996). Because § 1983 is a method for vindicating federal rights, not a source of substantive rights itself, the first step in an action under § 1983 is to identify the specific constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271 (1994).

III. County Jail and County as Defendants

Plaintiff sues the Muskegon County Jail. The jail is a building, not an entity capable of being sued in its own right. Plaintiff also names the County of Muskegon as a Defendant. Muskegon County may not be held vicariously liable for the actions of its employees under § 1983. *See Connick v. Thompson*, 563 U.S. 51, 60 (2011); *City of Canton v. Harris*, 489 U.S. 378, 392 (1989); *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978). Instead, a county is liable only when its official policy or custom causes the injury. *Connick*, 563 U.S. at 60. Conclusory allegations of unconstitutional conduct without specific factual allegations fail to state a claim under § 1983. *See Iqbal*, 556 U.S. at 678; *Twombly*, 550 U.S. at 555 (2007).

Plaintiff’s allegations against the county are conclusory and essentially rest on a theory of vicarious liability. *Id.* Plaintiff fails to suggest the existence of a custom or practice which led to his treatment by employees of the the county. As the Supreme Court has instructed, to demonstrate that a municipality had an unlawful custom, a plaintiff must show that the

municipality was deliberately indifferent to “practices so persistent and widespread as to practically have the force of law.” *Connick*, 563 U.S. at 60. Plaintiff’s allegations fall well short of meeting this standard. Plaintiff therefore fails to state a claim against Muskegon County.

IV. Eleventh Amendment Immunity

Plaintiff may not maintain a § 1983 action against the State of Michigan. Regardless of the form of relief requested, the states and their departments are immune under the Eleventh Amendment from suit in the federal courts, unless the state has waived immunity or Congress has expressly abrogated Eleventh Amendment immunity by statute. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98–101 (1984); *Alabama v. Pugh*, 438 U.S. 781, 782 (1978); *O’Hara v. Wigginton*, 24 F.3d 823, 826 (6th Cir. 1994). Congress has not expressly abrogated Eleventh Amendment immunity by statute, *Quern v. Jordan*, 440 U.S. 332, 341 (1979), and the State of Michigan has not consented to civil rights suits in federal court. *Abick v. Michigan*, 803 F.2d 874, 877 (6th Cir. 1986). In addition, the State of Michigan is not a “person” who may be sued under § 1983 for money damages. *See Lapides v. Bd. of Regents*, 535 U.S. 613, 617 (2002) (citing *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 66 (1989)); *Harrison*, 722 F.3d at 771. Therefore, the Court dismisses the State of Michigan.

In addition, the Court notes that the circuit courts of the State of Michigan are clearly arms of the state and, thus, immune from suit. *See, e.g., Nicklay v. Eaton Cnty. Cir. Ct.*, No. 1:08-cv-211, 2008 WL 2139613, at *5 (W.D. Mich. May 20, 2008). Under the Michigan Constitution, the judiciary is a separate and independent branch of state government. *See Jud. Att’ys Ass’n v. Michigan*, 586 N.W.2d 894, 897–98 (Mich. 1998). Each state court is part of the “one court of justice” established by the Michigan Constitution. Mich. Const. art. VI, § 1 (“The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit

court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house”); *see Smith v. Oakland Cnty. Cir. Ct.*, 344 F. Supp. 2d 1030, 1055 (E.D. Mich. 2004). The circuit courts are part of the state government, not the county or the city. *Judges of the 74th Jud. Dist. v. Bay Cnty.*, 190 N.W.2d 219, 224 (Mich. 1971). The Sixth Circuit squarely has held that suits against Michigan courts are barred by Eleventh Amendment sovereign immunity. *See Abick*, 803 F.2d at 877. The Sixth Circuit decision is but one of numerous federal court holdings recognizing Eleventh Amendment immunity in suits brought against the state courts. *See Harmon v. Hamilton Cnty. Ct. of Common Pleas*, 83 F. App’x 766, 768 (6th Cir. 2003); *Metz v. Sup. Ct.*, 46 F. App’x 228, 236–37 (6th Cir. 2002); *Mumford v. Basinski*, 105 F.3d 264, 268–70 (6th Cir. 1997); *see also Brooks-McCollum v. Delaware*, 213 F. App’x 92, 94 (3d Cir. 2007); *Zabriski v. Ct. Admin.*, 172 F. App’x 906, 908 (11th Cir. 2006); *Wilson v. Puma County Superior Ct.*, 103 F. App’x 285, 286 (9th Cir. 2004); *Harris v. Champion*, 51 F.3d 901, 905–06 (10th Cir. 1995). Furthermore, civil rights actions under 42 U.S.C. § 1983 may only be brought against a “person,” and courts are clearly not persons within the meaning of the statute. *See Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989). The 14th Judicial Circuit Court must therefore be dismissed on grounds of Eleventh Amendment immunity.

V. Plaintiff’s Challenge to his Incarceration for Probation Violations

Plaintiff claims that Defendant Circuit Court Judge Smedley violated his rights when she kept him confined in jail for seven months for a minor probation violation. Plaintiff also claims that Defendant Robinson violated his right to the effective assistance of counsel in the state court proceeding after he violated probation, and that Defendant Johnson Jr. failed to intervene when Plaintiff complained about Defendant Robinson.

Plaintiff challenges his incarceration by the State of Michigan. A challenge to the fact or duration of confinement should be brought as a petition for habeas corpus and is not the proper subject of a civil rights action brought pursuant to § 1983. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (the essence of habeas corpus is an attack by a person in custody upon the legality of that custody and the traditional function of the writ is to secure release from illegal custody). Therefore, to the extent that Plaintiff's complaint challenges the fact or duration of his incarceration, it must be dismissed. *See Adams v. Morris*, 90 F. App'x 856, 858 (6th Cir. 2004) (dismissal is appropriate where § 1983 action seeks equitable relief and challenges fact or duration of confinement); *see also Moore v. Pemberton*, 110 F.3d 22, 23–24 (7th Cir. 1997) (reasons for not construing a § 1983 action as one seeking habeas relief include (1) potential application of *Heck v. Humphrey*, 512 U.S. 477 (1994), (2) differing defendants, (3) differing standards of § 1915(a)(3) and § 2253(c), (4) differing fee requirements, (5) potential application of second or successive petition doctrine or three-strikes rules of § 1915(g)).

Moreover, to the extent Plaintiff seeks injunctive, declaratory, and monetary relief for alleged violations of Constitutional rights, his claim is barred by *Heck*, 512 U.S. at 486–87, which held that “in order to recover damages for allegedly unconstitutional conviction or imprisonment, *or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid*, a § 1983 plaintiff must prove that the conviction or sentence has been [overturned].” *See Edwards v. Balisok*, 520 U.S. 641, 646 (1997) (emphasis in original). In *Heck*, the Supreme Court held that a state prisoner cannot make a cognizable claim under § 1983 for an allegedly unconstitutional conviction or for “harm caused by actions whose unlawfulness would render a conviction or sentence invalid” unless a prisoner shows that the conviction or sentence has been “reversed on direct appeal, expunged by executive order, declared invalid by a state

tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus." 512 U.S. at 486–87 (footnote omitted). The holding in *Heck* has been extended to actions seeking injunctive or declaratory relief. *See Edwards*, 520 U.S. at 646–48 (declaratory relief); *Clarke v. Stalder*, 154 F.3d 186, 189–90 (5th Cir. 1998) (claim for injunctive relief intertwined with request for damages); *Wilson v. Kinkela*, No. 97-4035, 1998 WL 246401, at *1 (6th Cir. May 5, 1998) (injunctive relief). Plaintiff's new allegations about imminent danger clearly call into question the validity of his conviction and imprisonment. Therefore, those allegations would be barred under *Heck* until his criminal conviction has been invalidated.

Moreover, with regard to Defendant Smedley, the Court notes that a judge is absolutely immune from a suit for monetary damages. *Mireles v. Waco*, 502 U.S. 9, 9–10 (1991) ("[I]t is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself.") (internal quotations omitted); *Barrett v. Harrington*, 130 F.3d 246, 254 (6th Cir. 1997); *Barnes v. Winchell*, 105 F.3d 1111, 1115 (6th Cir. 1997). Absolute judicial immunity may be overcome in only two instances. First, a judge is not immune from liability for non-judicial actions, i.e., actions not taken in the judge's judicial capacity. *Mireles*, 502 U.S. at 11; *see Forrester v. White*, 484 U.S. 219, 229 (1988) (noting that immunity is grounded in "the nature of the function performed, not the identity of the actor who performed it"). Second, a judge is not immune for actions, though judicial in nature, taken in complete absence of all jurisdiction. *Id.* at 12.

Plaintiff's allegations clearly fail to implicate either of the exceptions to judicial immunity. There is no doubt that the decision to keep Plaintiff incarcerated pending his hearing was a judicial act and that Judge Smedley was acting within her jurisdiction in making that

decision. Accordingly, Judge Smedley is absolutely immune from liability. Because Judge Smedley is clearly immune from liability in this case, Plaintiff may not maintain an action for monetary damages against her. 28 U.S.C. § 1915(e)(2)(B)(iii).

VI. Defendant Myiers

Plaintiff's only claim against Defendant Myiers is that he ordered officers from the Muskegon County Jail to transport Plaintiff with the other prisoners, despite being aware of the fact that Plaintiff had tested positive for COVID-19. Plaintiff appears to be claiming that this conduct violated his Eighth Amendment rights.

The Eighth Amendment imposes a constitutional limitation on the power of the states to punish those convicted of crimes. Punishment may not be “barbarous,” nor may it contravene society’s “evolving standards of decency.” *Rhodes v. Chapman*, 452 U.S. 337, 345–46 (1981). The Amendment, therefore, prohibits conduct by prison officials that involves the “unnecessary and wanton infliction of pain.” *Ivey v. Wilson*, 832 F.2d 950, 954 (6th Cir. 1987) (per curiam) (quoting *Rhodes*, 452 U.S. at 346). The deprivation alleged must result in the denial of the “minimal civilized measure of life’s necessities.” *Rhodes*, 452 U.S. at 347; *see also Wilson v. Yaklich*, 148 F.3d 596, 600–01 (6th Cir. 1998). The Eighth Amendment is only concerned with “deprivations of essential food, medical care, or sanitation” or “other conditions intolerable for prison confinement.” *Rhodes*, 452 U.S. at 348 (citation omitted). Moreover, “[n]ot every unpleasant experience a prisoner might endure while incarcerated constitutes cruel and unusual punishment within the meaning of the Eighth Amendment.” *Ivey*, 832 F.2d at 954. “Routine discomfort is ‘part of the penalty that criminal offenders pay for their offenses against society.’” *Hudson v. McMillian*, 503 U.S. 1, 9 (1992) (quoting *Rhodes*, 452 U.S. at 347). As a consequence, “extreme deprivations are required to make out a conditions-of-confinement claim.” *Id.*

In order for a prisoner to prevail on an Eighth Amendment claim, he must show that he faced a sufficiently serious risk to his health or safety and that the defendant official acted with “‘deliberate indifference’ to [his] health or safety.” *Mingus v. Butler*, 591 F.3d 474, 479–80 (6th Cir. 2010) (citing *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (applying deliberate indifference standard to medical claims)); *see also Helling v. McKinney*, 509 U.S. 25, 35 (1993) (applying deliberate indifference standard to conditions of confinement claims)). The deliberate-indifference standard includes both objective and subjective components. *Farmer*, 511 U.S. at 834; *Helling*, 509 U.S. at 35–37. To satisfy the objective prong, an inmate must show “that he is incarcerated under conditions posing a substantial risk of serious harm.” *Farmer*, 511 U.S. at 834. Under the subjective prong, an official must “know[] of and disregard[] an excessive risk to inmate health or safety.” *Id.* at 837. “[I]t is enough that the official acted or failed to act despite his knowledge of a substantial risk of serious harm.” *Id.* at 842. “It is, indeed, fair to say that acting or failing to act with deliberate indifference to a substantial risk of serious harm to a prisoner is the equivalent of recklessly disregarding that risk.” *Id.* at 836. “[P]rison officials who actually knew of a substantial risk to inmate health or safety may be found free from liability if they responded reasonably to the risk, even if the harm ultimately was not averted.” *Id.* at 844.

Plaintiff claims that he was already infected with COVID-19 at the time that Defendant Myiers attempted to have him transferred. Although this clearly posed a threat of harm to the prisoners in the transport vehicle with Plaintiff, as well as to prisoners at the receiving prison, Plaintiff fails to allege facts showing that this action posed a substantial risk of serious harm to himself. Because the allegations do not show that Defendant Myiers disregarded a serious risk of harm toward Plaintiff, his Eighth Amendment claim against Defendant Myiers is properly dismissed.

VII. Motion for Entry of Claims

Plaintiff has filed a motion entitled “Motion for Entry of Claims.” (ECF No. 10.) Plaintiff’s motion merely adds facts to those set forth in his complaint, and states that he is seeking relief under the certain state statutes and state administrative rules. Claims under § 1983 can only be brought for “deprivation of rights secured by the constitution and laws of the United States.” *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 924 (1982). Section 1983 does not provide redress for a violation of a state law. *Pyles v. Raisor*, 60 F.3d 1211, 1215 (6th Cir. 1995); *Sweeton v. Brown*, 27 F.3d 1162, 1166 (6th Cir. 1994). Plaintiff’s assertion that Defendants violated state law therefore fails to state a claim under § 1983. Moreover, to the extent that Plaintiff seeks to invoke this Court’s supplemental jurisdiction over a state-law claim, the Court declines to exercise jurisdiction. In determining whether to retain supplemental jurisdiction, “[a] district court should consider the interests of judicial economy and the avoidance of multiplicity of litigation and balance those interests against needlessly deciding state law issues.” *Landefeld v. Marion Gen. Hosp., Inc.*, 994 F.2d 1178, 1182 (6th Cir. 1993). Ordinarily, where a district court has exercised jurisdiction over a state-law claim solely by virtue of supplemental jurisdiction and the federal claims are dismissed prior to trial, the court will dismiss the remaining state-law claims. *Id.* Dismissal, however, remains “purely discretionary.” *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 639 (2009) (citing 28 U.S.C. § 1367(c)); *Orton v. Johnny’s Lunch Franchise, LLC*, 668 F.3d 843, 850 (6th Cir. 2012). Here, the balance of the relevant considerations weighs against the continued exercise of supplemental jurisdiction. Accordingly, Plaintiff’s motion (ECF No. 10) will be denied and his state-law claims will be dismissed without prejudice.

Conclusion

Having conducted the review required by the Prison Litigation Reform Act, the Court determines that Plaintiff’s claims arsing under federal law will be dismissed for failure to

state a claim, under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c). In addition, Plaintiff's state law claims will be dismissed without prejudice to Plaintiff's ability to bring them in state court.

The Court must next decide whether an appeal of this action would be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). For the same reasons the Court concludes that Plaintiff's claims are properly dismissed, the Court also concludes that any issue Plaintiff might raise on appeal would be frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Accordingly, the Court certifies that an appeal would not be taken in good faith.

This is a dismissal as described by 28 U.S.C. § 1915(g).

An order and judgment consistent with this opinion will be entered.

Dated: August 24, 2021

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge